IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.6860 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RASIKLAL RANCHHODBHAI MARKNA

Versus

UNION OF INDIA

Appearance:

MR IM BENGALI for Petitioner No. 1

MR NEHAL R JOSHI for Petitioner No. 1

MR DN PATEL for Respondent Nos.1-2

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 26/07/2002

ORAL JUDGEMENT

1. Rule. Mr.D.N.Patel, learned Sr. Central Govt. Standing Counsel appears and waives service of rule on behalf of the respondents. By consent of the learned Counsel appearing for the respective parties the matter is taken up for final hearing today.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of mandamus directing the respondent authority to rectify

the error in the passport in respect of the petitioner's date of birth as per Birth Register instead of school leaving certificate.

3. As the petitioner is desirous of immigrating to foreign country, he was issued passport wherein it was revealed that his date of birth was mentioned as 03-12-1961 instead of 03-12-1962. The petitioner requested the respondent authority to change his birth date, however, the said request of the petitioner was turned down. Hence, the petitioner has filed the present petition.

4. In view of the settled position that if there is any discrepancy in the birth date recorded in the birth certificate issued by the competent authority and any other document the former should normally prevail, the Regional Passport Officer should not have had any hesitation in accepting the petitioner's request for showing the correct birth date in the passport on the basis of the certificate issued by the concerned authority.

5. In view of the above discussion, the petition is allowed. The Regional Passport Office is directed to consider the petitioner's request for change in the date of birth of the petitioner in the passport in accordance with law on the basis of the material which may be placed before it and shall pass appropriate orders within a period of six weeks from the date of the receipt of writ of this Court or a certified copy of this judgment, whichever is earlier. In case the petitioner is required to apply for a fresh passport, the petitioner shall comply with the requisite formalities for the same.

6. In light of the fact that the petitioner was already issued a passport and the present litigation is at the behest of the petitioner, the petitioner to pay the cost to the extent of Rs.2,500/= (Rupees Two thousand five hundred only).

7. The petition is accordingly allowed in terms as aforesaid. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(D.A.Mehta,J)

'Bhavesh'